

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on October 20, 2003.

## **I. DISPUTE**

Whether there should be additional reimbursement for HCPCS code E0747 rendered on 3/31/03.

## **II. RATIONALE**

Review of the requestor's request for reconsideration letter dated, 10/15/03, states in part, "In response to the payment of \$1050.00 received for the claim referenced above, I am requesting your reconsideration of these charges.

According to the your explanation of benefits, our claim was processed to our contract with \_\_\_\_\_. Our contract with \_\_\_\_\_ is for our claims to be paid the lesser of 65% of billed charges or 85% of the fee schedule. The billed procedure code is fee scheduled by TWCC to be reimbursed at 125% of Medicare allowable, which is \$4409.01. 65% of billed charges is \$2437.50, and 85% of fee schedule is \$3747.66. The allowed amount of our claim should be \$2437.50. ..."

Review of the carrier's position statement, dated 10/31/03, states in part, "...\_\_\_\_\_ provided a bone growth stimulator to the patient. We obtained prior authorization for our services and at that tie we submitted documentation to support medical necessity relating to the patient's workers' compensation case. We billed procedure code E0748, this procedure code is identified by the TWCC Mar, per Rule 134.202 (c), (2), (a).

The Medicare allowable for procedure code E0748 NU is \$3504.35. The TWCC MAR is 125% of the Medicare allowable. Per TWCC MAR the amount paid should be \$4380.44. CAN Insurance only allowed and paid \$1050.00. ..."

The carrier response was received untimely and therefore will not be considered in this review.

The TWCC Rule 134.202 was effective 8/1/03. The date of service in dispute is 3/31/03 and therefore will be reviewed according to the 1996 Medical Fee Guideline. Both the requestor and the respondent failed to submit copies of EOBs for the disputed HCPCS code E0747-NU, the code does not have a MAR reimbursement in the 1996 Medical Fee Guideline and DOP is required. The requestor contends that a contract exists between \_\_\_\_\_ and \_\_\_\_\_. The requestor did not submit a copy of the contract to support reimbursement of their claim as the lesser of 65% of billed charges or 85% of the fee schedule.

According to the Durable Medical Equipment Ground Rule (IV), if not listed MAR for the DME items, the items should be billed at the usual and customary rate of the DME provider, and the insurance carrier shall reimburse the DME provider at an amount pre-negotiated between the provider and carrier or, if there is no pre-negotiated amount, the fair and reasonable rate for the item described. The requestor did not submit relevant information to support whether a pre-negotiated amount exists with the carrier. The requestor did not submit relevant information to support fair and reasonable rate of the DME item. Therefore, according to DME Ground Rule (IV), the requestor is not entitled to an additional reimbursement of the disputed charge.

### **III. DECISION**

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor is not entitled to reimbursement for HCPCS code E0747-NU.

The above Findings and Decision is hereby issued this 28<sup>th</sup> day of May 2004.

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Medical Review Division

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